



STATE OF TENNESSEE
Department of Education

REQUEST FOR PROPOSALS
FOR
Technical Assessment Services

RFP Number: 331.11-012

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1 INTRODUCTION

1.1 Statement of Purpose

The purpose of this Request for Proposals (RFP) is to define the State's minimum requirements, solicit proposals, and gain adequate information by which the State may evaluate the services offered by Proposers.

The State of Tennessee, Department of Education, hereinafter referred to as the State, intends to secure a contract for technical computer consulting and programming services as related to student test scanning, test scoring, and report dissemination.

The State intends to secure a contractor to technically support the following programs:

1. TCAP Achievement test. The State has a unique technical arrangement with the test contractor, CTB McGraw-Hill, in that CTB provides the State with the software to scan, edit and bridge the assessment data on State equipment for which technical services are required each spring.
2. Gateway and End-of-Course tests. The State administers these tests three times a year and scans the tests at regional sites. Technical programming services are required to support the scanning throughout the year.
3. Competency test. (Competency will be terminated 9/04). The State is phasing out the Competency test; however, technical services are needed for the last four administrations for the editing system.
4. Software Development. The State requires on-line application modifications and support of the Faculty Student Data entry program, Online Ordering System, State web pages, Report of Irregularity System Demographic Validation Report and Special Education TCAP Alt reporting.

1.2 Scope of Service

Section A of the *pro forma* contract, included in Section 8 of this RFP, details the scope of services and deliverables that the State requires.

The *pro forma* contract also includes the terms and conditions required by the State.

1.3 Contract Duration

The State intends to enter into a contract with an effective period of November 1, 2003 through October 31, 2008.

1.4 Letter of Intent to Propose

A letter indicating a vendor's intent to respond to this RFP with a proposal should be sent to the RFP Coordinator (refer to Section 3.1) no later than the *Letter of Intent to Propose* deadline date detailed in the Section 2, RFP Schedule of Events. *Letters of Intent to Propose* may be delivered by facsimile transmission. Vendors may withdraw their *Letters of Intent to Propose* at any time before the deadline for submitting a proposal.

The following information should be included in the *Letter of Intent to Propose*.

Vendor Name
 Name and Title of Vendor Main Contact
 Address, Telephone Number, and Facsimile Number of Vendor Main Contact
 Signed Statement of Intent to Propose

Submittal of a *Letter of Intent to Propose* by the specified deadline, is not a prerequisite for submitting a proposal, but it is necessary to ensure a vendor's receipt of RFP amendments and other communications regarding the RFP.

1.5 Proposal Deadline

Proposals shall be submitted no later than the Proposal Deadline time and date detailed in the Section 2, RFP Schedule of Events. Proposers shall respond to the written RFP and any exhibits, attachments, or amendments. A Proposer's failure to submit a proposal as required before the deadline shall cause the proposal to be disqualified.

Proposers assume the risk of the method of dispatch chosen. The State assumes no responsibility for delays caused by any delivery service. Postmarking by the due date shall not substitute for actual proposal receipt by the State. Late proposals shall not be accepted nor shall additional time be granted to any potential Proposer.

Proposals may not be delivered orally, by facsimile transmission, or by other telecommunication or electronic means.

1.6 Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the State's contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the State or in the employment practices of the State's contractors. Accordingly, all vendors entering into contracts with the State shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

The State has designated the following to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and applicable federal regulations:

Dr. May Alice Ridley, Director of Office of Civil Rights
 Tennessee Department of Education
 5th Floor Andrew Johnson Tower
 710 James Robertson Parkway
 Nashville, TN 37243
 Phone: (615) 532-4982

1.7 Assistance to Proposers With a Disability

Proposers with a disability may receive accommodation regarding the means of communicating this RFP and participating in this procurement process. Proposers with a disability should contact the RFP Coordinator to request reasonable accommodation no later than the deadline for accommodation requests detailed in the Section 2, RFP Schedule of Events.

2 RFP SCHEDULE OF EVENTS

The following RFP Schedule of Events represents the State's best estimate of the schedule that shall be followed. Unless otherwise specified, the time of day for the following events shall be between 8:00 a.m. and 4:30 p.m., Central Time.

The State reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. Notification of any adjustment to the Schedule of Events shall be provided to all vendors that submitted a *Letter of Intent to Propose*.

	EVENT	DATE	TIME
1	State Issues RFP	8/18/03	
2	Deadline for Proposers with a Disability to Make Accommodation Requests	8/25/03	
3	Pre-proposal Conference	8/28/03	10:00 a.m. CST
4	Deadline for <i>Letter of Intent to Propose</i>	9/3/03	
5	Deadline for Written Comments	9/5/03	
6	State Issues Responses to Written Comments	9/17/03	
7	Deadline for Submitting a Proposal <u>and</u> State Opens Technical Proposals	9/29/03	3:00 p.m. CST
8	State Completes Technical Evaluations	10/8/03	
9	State Opens Cost Proposal	10/9/03	10:00 a.m. CST
10	State Completes Cost Evaluations	10/9/03	
11	State Sends a written Evaluation Notice to Proposers <u>and</u> State Opens RFP Files for Public Inspection	10/13/03	9:00 a.m.
12	Conclusion of Contract Negotiation, and Contract Signing	10/27/03	
13	Anticipated Contract Start Date	11/1/03	
14	Deadline for Performance Bond (failure to submit the performance bond as required shall result in contract termination)	11/10/03	

3 GENERAL REQUIREMENTS AND INFORMATION

3.1 RFP Coordinator

The following RFP Coordinator shall be the main point of contact for this RFP.

Michael Timme, Contracts Coordinator
Tennessee Department of Education
Division of Evaluation and Assessment
6th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Email: Michael.Timme@state.tn.us
Phone: (615) 532-8539
Fax: (615) 253-5705

3.2 RFP Number

The State has assigned the following RFP identification number that must be referenced in all communications regarding the RFP:

RFP-331.11-012

3.3 Communications Regarding the RFP

- 3.3.1 Upon release of this RFP, all vendor communications concerning this procurement must be directed to the RFP Coordinator. Unauthorized contact regarding the RFP with other State employees of the procuring state agency may result in disqualification.
- 3.3.2 All communications should be in writing to the RFP Coordinator. Any oral communications shall be considered unofficial and nonbinding on the State. Written Comments, including questions and requests for clarification, must cite the subject RFP number. The RFP Coordinator must receive these written requests by the deadline specified in the RFP Schedule of Events.
- 3.3.3 Any communication regarding this RFP sent by facsimile transmission must also be sent by United States mail on the same date.
- 3.3.4 The State shall respond in writing to written communications. Such response shall constitute an amendment to the RFP. Only written responses to written communications shall be considered official and binding upon the state. The State reserves the right, at its sole discretion, to determine appropriate and adequate responses to written comments, questions, and requests for clarification.
- 3.3.5 The State shall mail copies of its written responses to written comments, to all vendors submitting a *Letter of Intent to Propose*.
- 3.3.6 Any data or factual information provided by the State shall be deemed for informational purposes only, and if a proposer relies on said factual information it should either:
- a) independently verify the information; or
 - b) obtain the State's written consent to rely thereon.

3.4 Required Review and Waiver of Objections by Proposers

Proposers should carefully review this RFP and all attachments, including but not limited to the *pro forma* contract, for comments, questions, defects, objections, or any other matter requiring clarification or correction (collectively called “comments”). Comments concerning RFP objections must be made in writing and received by the State no later than the Deadline for Written Comments detailed in the Section 2, RFP Schedule of Events. This will allow issuance of any necessary amendments and help prevent the opening of defective proposals upon which contract award could not be made.

Protests based on any objection shall be considered waived and invalid if these comments/objections have not been brought to the attention of the State, in writing, by the Deadline for Written Comments.

3.5 Proposal Submittal

- 3.5.1 Proposers shall respond to this RFP with a Technical Proposal and a Cost Proposal. No pricing information shall be included in the Technical Proposal.

Inclusion of Cost Proposal amounts in the Technical Proposal shall make the proposal nonresponsive.

One (1) original and seven (7) copies of the Technical Proposal shall be submitted to the State in a sealed package and be clearly marked:

“Technical Proposal in Response to RFP-331.11-012 -- Do Not Open”

One (1) Cost Proposal shall be submitted to the State as a separate, sealed package and clearly marked:

“Cost Proposal in Response to RFP-331.11-012 -- Do Not Open”

If the separately sealed proposals, marked as required above, are enclosed in another container for mailing purposes, the outermost container must fully describe the contents of the package and must be clearly marked:

“Contains Separately Sealed Technical and Cost Proposals”

- 3.5.2 All proposals must be submitted to the RFP Coordinator at the following address by the date and time identified as the Deadline for Submitting a Proposal in the RFP Schedule of Events.

Michael Timme, RFP Coordinator
Tennessee Department of Education
Office of Budget and Planning
6th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243

3.6 Proposal Preparation Costs

The State shall not pay any costs associated with the preparation, submittal, or presentation of any proposal.

3.7 Proposal Withdrawal

To withdraw a proposal, the vendor must submit a written request, signed by an authorized representative, to the RFP Coordinator. After withdrawing a previously submitted proposal, the vendor may submit another proposal at any time up to the deadline for submitting proposals.

3.8 Proposal Amendment

The State shall not accept any amendments, revisions, or alterations to proposals after the deadline for proposal submittal unless such is formally requested, in writing, by the State.

3.9 Proposal Errors

Proposers are liable for all errors or omissions contained in their proposals. Proposers shall not be allowed to alter proposal documents after the deadline for submitting a proposal.

3.10 Incorrect Proposal Information

If the state determines that a proposer has provided, for consideration in the evaluation process or contract negotiations, incorrect information which the proposer knew or should have known was materially incorrect, that proposal shall be determined non-responsive, and the proposal shall be rejected.

3.11 Prohibition of Proposer Terms and Conditions

A Proposer may not submit the Proposer's own contract terms and conditions in a response to this RFP. If a proposal contains such terms and conditions, the State, at its sole discretion, may determine the proposal to be a nonresponsive counteroffer, and the proposal may be rejected.

3.12 Assignment and Subcontracting

3.12.1 The Contractor may not subcontract, transfer, or assign any portion of the contract without prior, written approval from the State. Each subcontractor must be approved in writing by the State. The substitution of one subcontractor for another may be made only at the discretion of the State and with prior, written approval from the State.

3.12.2 Notwithstanding the use of approved subcontractors, the Proposer, if awarded a contract under this RFP, shall be the prime contractor and shall be responsible for all work performed.

3.13 Right to Refuse Personnel

The State reserves the right to refuse, at its sole discretion, any subcontractors or any personnel provided by the prime contractor or its subcontractors.

3.14 Proposal of Alternate Services

Proposals of alternate services (*i.e.*, proposals that offer something different from that requested by the RFP) shall be considered nonresponsive and rejected.

3.15 Proposal of Additional Services

If a Proposer indicates an offer of services in addition to those required by and described in this RFP, these additional services may be added to the contract before contract signing at the sole discretion of the State.

The cost for any such additional services must be incorporated into the required cost amount(s) provided in the Cost Proposal so that all proposals may be equitably evaluated. The Proposer shall **not** propose unrequested rates as separate, additional rates for additional services. (Refer to Section 5.3 of this RFP for Cost Proposal requirements.)

3.16 Independent Price Determination

- 3.16.1 A proposal shall be disqualified and rejected by the State if the price in the proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Proposer, a State employee, or any competitor.
- 3.16.2 The Proposer is prohibited from submitting more than one proposal. Submittal of more than one proposal shall result in the disqualification of the Proposer.
- 3.16.3 The Proposer is prohibited from submitting multiple proposals in a different form (i.e., as a prime contractor and as a subcontractor to another prime contractor). Submittal of multiple proposals in a different form may result in the disqualification of all Proposers associated with a multiple proposal.
- 3.16.4 Should any such prohibited action detailed in Sections 3.16.1, 3.16.2, and 3.16.3 be detected any time during the term of the contract, such action shall be considered a material breach and grounds for contract termination.

3.17 Insurance

The apparent successful Proposer may be required to provide proof of adequate worker's compensation and public liability insurance coverage before entering into a contract. Additionally, the State may, at its sole discretion, require the apparent successful Proposer to provide proof of adequate professional malpractice liability or other forms of insurance. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by the State shall be in form and substance acceptable to the State.

3.18 Licensure

Before a contract pursuant to this RFP is signed, the Vendor must hold all necessary, applicable business and professional licenses. The State may require any or all Proposers to submit evidence of proper licensure.

3.19 Conflict of Interest and Proposal Restrictions

- 3.19.1 By submitting a proposal, the Proposer certifies that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the procurement under this RFP.

Notwithstanding this restriction, nothing in this RFP shall be construed to prohibit a state agency or other governmental entity from making a proposal, being considered for award, or being awarded a contract under this RFP.

- 3.19.2 State agencies shall not contract with an individual who is, or within the past six months has been, an employee of the State of Tennessee. An individual shall be deemed a State employee until such time as all salary, termination pay, and compensations representing annual or compensatory leave have been paid by the State. A contract with a company in

which a controlling interest is held by a State employee shall be considered to be a contract with said individual and shall be prohibited.

- 3.19.3 Any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this RFP or its scope of services shall be considered to have been given information that would afford an unfair advantage over other Proposers, and said individual, company, or other entity may not submit a proposal in response to this RFP.

3.20 RFP Amendment and Cancellation

The State reserves the unilateral right to amend this RFP in writing at any time. The State also reserves the right to cancel or reissue the RFP at its sole discretion. If an amendment is issued it shall be provided to all vendors submitting a *Letter of Intent to Propose*. Proposers shall respond to the final written RFP and any exhibits, attachments, and amendments.

3.21 Right of Rejection

- 3.21.1 The State reserves the right, at its sole discretion, to reject any and all proposals or to cancel this RFP in its entirety.
- 3.21.2 Any proposal received which does not meet the requirements of this RFP may be considered to be nonresponsive, and the proposal may be rejected. Proposers must comply with all of the terms of this RFP and all applicable State laws and regulations. The State may reject any proposal that does not comply with all of the terms, conditions, and performance requirements of this RFP.
- 3.21.3 Proposers may not restrict the rights of the State or otherwise qualify their proposals. If a Proposer does so, the State may determine the proposal to be a nonresponsive counteroffer, and the proposal may be rejected.
- 3.21.4 The State reserves the right, at its sole discretion, to waive variances in technical proposals provided such action is in the best interest of the State. Where the State waives minor variances in proposals, such waiver does not modify the RFP requirements or excuse the proposer from full compliance with the RFP. Notwithstanding any minor variance, the State may hold any Proposer to strict compliance with the RFP.

3.22 Disclosure of Proposal Contents

All proposals and other materials submitted in response to this RFP procurement process become the property of the State of Tennessee. Selection or rejection of a proposal does not affect this right. All proposal information, including detailed price and cost information, shall be held in confidence during the evaluation process. Upon the completion of the evaluation of proposals, indicated by public release of an Evaluation Notice, the proposals and associated materials shall be open for review by the public in accordance with ***Tennessee Code Annotated***, Section 10-7-504(a)(7). By submitting a proposal, the Proposer acknowledges and accepts that the full contents of the proposal and associated documents shall become open to public inspection.

3.23 Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and, the rights and obligations of the State and Proposers shall be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4 SPECIAL REQUIREMENTS

4.1 Pre-Proposal Conference

- 4.1.1 A pre-proposal conference for all potential Proposers is scheduled at the Pre-Proposal Conference time and date detailed in the Section 2, RFP Schedule of Events. The conference shall be held at Andrew Johnson Tower's conference room- 7th floor. Each vendor may send a maximum of 3 representatives. The purpose of the conference is to discuss the work to be performed with the prospective Proposers and allow them to ask questions concerning the RFP.
- 4.1.2 The state encourages all potential proposers to attend the pre-proposal conference although attendance is not mandatory.
- 4.1.3 Specific questions concerning the RFP should be submitted in writing before the pre-proposal conference so that the State may prepare responses before the conference. Additional questions shall be entertained at the conference; however, responses may be deferred and provided at a later date.
- 4.1.4 The response to any question that is given orally at the pre-proposal conference is to be considered tentative and nonbinding on the State. After the conference, the official response to questions shall be published in writing. This shall ensure accurate, consistent responses to all vendors. Copies of all written questions and the State's responses shall be mailed to all vendors submitting a *Letter of Intent to Propose*. Only the written responses from the State shall be considered official.

4.2 Location and Work Space

The work under this RFP is to be performed, completed, and managed at the Contractor's site and Andrew Johnson Tower. The State SHALL provide two work-spaces for the Contractor.

4.3 Performance Bond

The State shall require a performance bond upon approval of a contract pursuant to this RFP. The amount of the performance bond must be in the sum of two hundred fifty thousand dollars (\$250,000).

The successful Proposer shall obtain the required performance bond in form and substance acceptable to the State (as detailed by Attachment 9.7 of this RFP) and provide it to the State no later than 11/10/03. Failure to provide the performance bond prior to the deadline as required shall result in contract termination.

In lieu of a performance bond, a surety deposit, in the sum of two hundred fifty thousand dollars (\$250,000), may be substituted if approved by the State prior to its submittal.

5 PROPOSAL FORMAT AND CONTENT

5.1 General Proposal Requirements

- 5.1.1 The State discourages lengthy and costly proposals. Proposals should be prepared simply and economically and provide a straightforward, concise description of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content.
- 5.1.2 Proposers must follow all formats and address all portions of the RFP set forth herein providing all information requested. Proposers may retype or duplicate any portion of this RFP for use in responding to the RFP, provided that the proposal clearly addresses all of the State's information requirements.
- 5.1.3 Proposers must respond to every subsection under the Technical Proposal and Cost Proposal sections below. Proposers must label each response to RFP requirements with the section and subsection numbers associated with the subject requirement in this RFP (e.g., the response to the third requirement of the Proposal Transmittal Letter would be labeled 5.2.1.3).

Failure to follow the specified format, to label the responses correctly, or to address all of the subsections may, at the State's sole discretion, result in the rejection of the Proposal.

Proposals must not contain extraneous information. All information presented in a Proposal must be relevant in response to a requirement of this RFP, must be clearly labeled, and, if not incorporated into the body of the Proposal itself, must be referenced to and from the appropriate place within the body of the Proposal. Any information not meeting these criteria shall be deemed extraneous and shall in no way contribute to the evaluation process.

- 5.1.4 Proposals shall be prepared on standard 8 1/2" x 11" paper. Foldouts containing charts, spread sheets, and oversize exhibits are permissible. All responses, as well as any reference material presented, must be written in English. All monetary amounts must be detailed in United States currency. All proposal pages must be numbered.
- 5.1.5 Proposers shall divide their responses to this RFP into a Technical Proposal and a Cost Proposal and submit them in accordance with Section 3.5 of this RFP by the Deadline for Submitting a Proposal in the RFP Schedule of Events.

Cost Proposal and pricing information shall **not** be included in the Technical Proposal. Inclusion of Cost Proposal dollar amounts in the Technical Proposal shall make the proposal nonresponsive and the proposal shall be rejected.

5.2 Technical Proposal

The Technical Proposal shall be divided into the following sections:

- Proposal Transmittal Letter;
- Mandatory Proposer Qualifications;
- General Proposer Qualifications and Experience;
- Technical Approach; and,
- Detailed Documentation of Proposer Financial Resources.

If a proposal fails to detail and address each of the requirements detailed herein, the State may determine the proposal to be nonresponsive and reject it.

- 5.2.1 Proposal Transmittal Letter. The Technical Proposal must provide a written transmittal and offer of the proposal in the form of a standard business letter. The Proposal Transmittal Letter shall reference and respond to the following subsections in sequence and attach corresponding documentation as required. Each proposal must meet the Proposal Transmittal Letter requirements and provide all required documentation. A Proposal Transmittal Letter is mandatory, and failure to provide the information as required may result in the proposal being considered nonresponsive and rejected.
- 5.2.1.1 The letter shall be signed by a company officer empowered to bind the proposing vendor to the provisions of this RFP and any contract awarded pursuant to it; if said individual is not the company president, the letter shall attach evidence showing authority to bind the company.
- 5.2.1.2 The letter shall state that the proposal remains valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any resulting contract between the Proposer and the State.
- 5.2.1.3 The letter shall provide the complete name and Social Security Number of the individual or the legal entity name and Federal Employer Identification Number of the firm making the proposal.
- 5.2.1.4 The letter shall provide the name, mailing address, and telephone number of the person the State should contact regarding the proposal.
- 5.2.1.5 The letter shall state whether the Proposer intends to use subcontractors — if so, clearly identify the names of the subcontractors along with complete mailing addresses and the scope and portions of the work the subcontractors shall perform. (NOTE: The Contractor must obtain written approval from the State prior to the use of any subcontractors.)
- 5.2.1.6 The letter shall state whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. The State reserves the right to cancel an award if any interest disclosed from any source could either give the appearance of a conflict of interest or cause speculation as to the objectivity of the offeror. Such determination regarding any questions of conflict of interest shall be solely within the discretion of the State.
- 5.2.2 Mandatory Proposer Qualifications. Technical Proposals shall provide responses and documentation, as required, that indicate that the Proposer has met the Mandatory Proposer Qualifications requirements. Any Proposal which does not meet the mandatory requirements of 5.2.2.2, 5.2.2.3, 5.2.2.4, and 5.2.2.5 and provide all required documentation may be considered nonresponsive, and the proposal may be rejected. Any Proposal which does not meet the mandatory requirements of 5.2.2.1 and provide all required documentation shall be considered nonresponsive, and the proposal shall be rejected.

Technical Proposals shall provide the following information (referencing the subsections in sequence):

- 5.2.2.1 documentation that the Proposer has experience as a prime contractor or in a lead role in all of the following 3 areas:
- (a) large-scale assessment scanning with 5000I scanners
 - (b) utilizing remote scanners in large-scale test processing
 - (c) large-scale assessment preparing, scanning, and scoring
- 5.2.2.2 written confirmation that the Proposer shall comply with all of the provisions in this RFP and shall accept all terms and conditions set out in the *pro forma* contract in Section 8 of this RFP. (NOTE: If the Proposal fails to provide said confirmation without exception or qualification, the

State, at its sole discretion, may determine the proposal to be a nonresponsive counteroffer, and the proposal may be rejected.)

- 5.2.2.3 written certification and assurance of the Proposer's compliance with:
- a) the laws of the State of Tennessee;
 - b) Title VI of the federal Civil Rights Act of 1964;
 - c) Title IX of the federal Education Amendments Act of 1972;
 - d) the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
 - e) the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
 - f) the condition that the submitted proposal was independently arrived at, without collusion, under penalty of perjury; and,
 - g) the condition that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the Procurement under this RFP.

(Use Attachment 9.1, Certification of Compliance)

- 5.2.2.4 documentation of financial responsibility and stability; said documentation shall include:
- 5.2.2.4.1 a current written bank reference, in the form of a standard business letter, indicating that the proposer's business relationship with the financial institution is in positive standing
 - 5.2.2.4.2 two current written, positive credit references, in the form of standard business letters, from vendors with which the proposer has done business; in lieu of such, documentation of a positive credit rating determined by a accredited credit bureau within the last 6 months, and
 - 5.2.2.4.3 a copy of a valid certificate of insurance indicating liability insurance in the amount sufficient to cover any potential liability arising as a result of a contract pursuant to the RFP, and
- 5.2.2.5 written confirmation that the proposer will provide a performance bond in accordance with the requirements of the RFP.
- 5.2.3 General Proposer Qualifications and Experience. Technical Proposals shall provide the following information (referencing the subsections in sequence) to evidence the Proposer's experience in delivering services similar to those required by this RFP:
- 5.2.3.1 a brief, descriptive statement indicating the Proposer's credentials to deliver the services sought under this RFP;
 - 5.2.3.2 a brief description of the Proposer's background and organizational history;
 - 5.2.3.3 years in business;
 - 5.2.3.4 a brief statement of how long the Proposer has been performing the services required by this RFP;
 - 5.2.3.5 location of offices;
 - 5.2.3.6 a description of the Proposer organization's number of employees, longevity, client base;

- 5.2.3.7 whether there have been any mergers, acquisitions, or sales of the Proposer company within the last ten years (if so, an explanation providing relevant details);
- 5.2.3.8 form of business (*i.e.*, individual, sole proprietor, corporation, non-profit corporation, partnership, joint venture, limited liability company, *et cetera*);
- 5.2.3.9 a statement as to whether the Proposer or any of the Proposer's employees, agents, independent contractors, or subcontractors have been convicted of, pled guilty to, or pled *nolo contendere* to any felony; and if so, an explanation providing relevant details;
- 5.2.3.10 a statement as to whether there is any pending litigation against the Proposer; and if such litigation exists, attach an opinion of counsel as to whether the pending litigation will impair the Proposer's performance in a contract under this RFP;
- 5.2.3.11 a statement as to whether, in the last ten years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors; and if so, an explanation providing relevant details;
- 5.2.3.12 an organizational chart highlighting the key people who shall be assigned to accomplish the work required by this RFP and illustrating the lines of authority and designate the individual responsible for the completion of each service component and deliverable of the RFP;
- 5.2.3.13 a narrative description of the proposed project team, its members, and organizational structure;
- 5.2.3.14 a personnel roster and resumes of key people who shall be assigned by the Proposer to perform duties or services under the contract (include estimated number of hours to be worked on the contract for each person, and the resumes shall detail each individual's title, education, current position with the Proposer, and employment history);
- 5.2.3.15 Proposer Experience References. A list of the three (3) largest clients the Proposer is currently serving, or has served within the past three [3] years. Experience from 5.2.2.1 shall be included with reference(s) . Higher scores will be given for experience reflecting services the same as or similar to those requested in this RFP. For each client, include:
 - a) Client name, address, and telephone number. In the case of known mergers or acquisitions, provide current name, address, and telephone number.
 - b) Description of service provided.
 - c) Maximum number of staff on-site with the client.
 - d) Time period of the project and/or contract. Must be stated in the form of "from-to" dates (e.g., "Jan. 95 -- March 96"). Do not state this as a length of time (e.g., "two years"), without start and end dates.
 - e) For each client, provide contact information for one reference. The Proposer must include the following contact information for that reference: person's name, telephone number, fax number, and e-mail address. The Proposer **must** verify the accuracy of all contact information (name, telephone number, fax number, and e-mail address) within thirty (30) days prior to the "Deadline for Submitting a Proposal" date. The State will send a reference check questionnaire to these references, and their input on the questionnaire will affect the Proposer's score.

The Proposer is fully responsible for the timing and content of the reference check information returned to the State. If the reference does not return the questionnaire

by the date specified or fails to properly fill out the questionnaire, then scoring will proceed as if the reference information were unfavorable.

Label the reference responses above as follows: "Experience Reference # 1," followed by specific responses to 5.2.3.15 a) through e); "Experience Reference #2," etc.

- 5.2.3.16 a list, if any, of all current contractual relationships with the State of Tennessee and all those completed within the previous five year period— the list must include:
- a) the contract number;
 - b) the contract term; and
 - c) the procuring state agency for each reference.

(NOTE: Current or prior contracts with the State are NOT a prerequisite to being awarded the maximum available points for the Proposer Qualifications and Experience category. The existence of such current or prior contractual relationships will not automatically result in the addition or deduction of evaluation points. Any such current or prior contractual relationships, like those detailed pursuant to Section 5.2.3.15., shall be generally considered in awarding Proposer Qualifications and Experience category points.)

- 5.2.4 Technical Approach. The Proposer shall describe the vendor's plans and approach for accomplishing the work requested. The information provided shall be in enough detail to enable the State to ascertain the Proposer's understanding of the effort to be accomplished and should outline the steps in the total service proposed. Technical Proposals shall provide the following narrative information (referencing the subsections in sequence) to evidence the suitability of the Proposer's technical approach to delivering the services sought under this RFP. Label the responses as follows: 5.2.4.1, 5.2.4.2, 5.2.4.3, 5.2.4.4, and 5.2.4.5:

- 5.2.4.1 Proposers must provide a comprehensive narrative, captioned "Project Understanding," that illustrates the vendor's understanding of the State's requirements and project schedule.
- 5.2.4.2 Describe how your company would rapidly respond to fluctuations in required services. For example, the State testing cycle has peaks and off-peak periods. Off-peak periods may not require any contracted personnel for several weeks, and then go into a peak that would require an immediate need for test processing consultants. Describe, in some detail, how the Proposer would meet this fluctuation in staff services. If your company does not have an office or employee presence in the Nashville area, describe how you would overcome this limitation. Limit your response to 1,000 words.
- 5.2.4.3 Indicate if the process you described in 5.2.4.2, above, is currently in place, or if it would require the Proposer to institute new procedures and possibly hire additional personnel not currently on staff.
- 5.2.4.4 Proposers must provide a comprehensive narrative, captioned "Project Approach," that illustrates how the Proposer will complete the scope of services, accomplish required objectives, and meet the State's project schedule.
- 5.2.4.5 Proposers must provide a comprehensive narrative, captioned "Project Management," that illustrates how the Proposer will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule.
- 5.2.5 Detailed Documentation of Financial Resources. The Proposer must provide the following documentation of sufficient financial strength and resources to provide the scope of services as required.

- 5.2.5.1 The Proposer's most recent independent audited financial statements for a fiscal year ended within the last 36 months. Compiled or reviewed financial statements will not be accepted.
- 5.2.5.1.1 The audited financial statements must be:
- a) prepared with all monetary amounts detailed in United States currency;
 - b) prepared under United States generally accepted accounting principles; and
 - c) audited under United States generally accepted auditing standards.
- 5.2.5.1.2 The audited financial statements must include:
- a) the auditor's opinion letter;
 - b) financial statements; and
 - c) the notes to the financial statements.
- 5.2.5.2 Documentation disclosing the amount of cash flows from operating activities for the proposer's most current operating period. Said documentation must indicate whether the cash flows are positive or negative, and, if the cash flows are negative for the most recent operating period, the documentation must include a detailed explanation of the factors contributing to the negative cash flows.
- 5.3 Cost Proposal**
- 5.3.1 The Cost Proposal shall be submitted to the State in a separate, sealed package from the Technical proposal.
- 5.3.2 The Cost Proposal required format is provided in Attachment 9.2, and the Cost Proposal must be recorded on an exact duplicate thereof.
- 5.3.3 The Cost Proposal shall specifically record the exact cost amounts proposed in the appropriate space as required by Attachment 9.2. Said proposed cost shall incorporate all cost for the proposed scope of services for the total contract period.
- 5.3.4 The Cost Proposal shall record only the proposed cost as required, and shall not record any other rates, amounts, or information. It shall not record any text that could be construed as a qualification of the cost amounts proposed. If the Proposer fails to specify the Cost Proposal as required, the State shall determine the proposal to be nonresponsive and reject it.
- 5.3.5 The proposer must sign and date the Cost Proposal.

6 EVALUATION AND CONTRACTOR SELECTION

6.1 Proposal Evaluation Categories and Maximum Points

The categories that shall be considered in the evaluation of proposals are Qualifications and Experience, Technical Approach, and Cost. The maximum points that shall be awarded for each of these categories are:

CATEGORIES	MAXIMUM POINTS POSSIBLE
General Proposer Qualifications and Experience	50
Technical Approach	20
Cost Proposal	30

6.2 Proposal Evaluation Process

- 6.2.1 The evaluation process is designed to award the procurement not necessarily to the Proposer of least cost, but rather to the Proposer with the best combination of attributes based upon the evaluation criteria. Therefore, proposals are evaluated against the evaluation criteria in this RFP and NOT against other proposals.
- 6.2.2 The RFP Coordinator shall manage the proposal evaluation process and maintain proposal evaluation records. A Proposal Evaluation Team made up of three or more State employees shall be responsible for evaluating proposals.
- 6.2.3 All proposals shall be reviewed by the RFP Coordinator to determine compliance with basic proposal requirements as specified in this RFP, including the Mandatory Requirements. If the RFP Coordinator determines that a proposal may be missing one or more such requirements, the Proposal Evaluation Team shall review the proposal to determine:
- a) if it meets requirements for further evaluation;
 - b) if the State shall request clarification(s) or correction(s); or
 - c) if the State shall determine the proposal nonresponsive and reject it. In the event the Proposer fails to meet the Mandatory Requirements of 5.2.2.1, it shall be rejected.
- 6.2.4 Chris Steppe, Director, Internal Audit, shall provide an analysis of each proposer's detailed documentation of financial resources. The analysis may include where appropriate (but not be limited to) an examination of the Current Ratio, Quick or Acid Test Ratio; Cash Ratio, Gross Working Capital to Total Assets Ratio, and Debt to Worth Ratio. The analysis shall result in a clear, written determination provided to the RFP Coordinator regarding whether each proposer's detailed documentation of financial resources indicated apparent financial strength, stability, and resources to provide the subject scope of services as required.

If a proposer's detailed documentation of financial resources is not clearly determined to indicate apparent financial strength and resources to provide the subject scope of services as required, the Proposal Evaluation Team shall review the proposal to determine if the State shall:

- a) request clarification(s) or correction(s); or

b) determine the proposal nonresponsive and reject it.

- 6.2.5 The Proposal Evaluation Team shall evaluate responsive proposals. Each evaluator shall score the General Proposer Qualifications and Experience section and the Technical Approach section of each proposal. The evaluation scoring shall use the pre-established evaluation criteria and weights set out in this RFP. Each evaluator shall use only whole numbers for scoring proposals. (Refer to Attachment 9.3, Technical Proposal Evaluation Format).
- 6.2.6 The State reserves the right, at its sole discretion, to request clarifications of technical proposals or to conduct discussions for the purpose of clarification with any or all Proposers. The purpose of any such discussions shall be to ensure full understanding of the proposal. Discussions shall be limited to specific sections of the proposal identified by the State and, if held, shall be after initial evaluation of Technical Proposals. If clarifications are made as a result of such discussion, the Proposer shall put such clarifications in writing.
- 6.2.7 Upon completion of Technical Proposal scoring by the Proposal Evaluation Team, the RFP Coordinator shall calculate the average Technical Proposal score for each proposal.
- 6.2.8 After opening the Cost Proposals, the RFP Coordinator shall calculate scores for each Cost Proposal. The Cost Evaluation score shall be based on the proposed cost for evaluation amount indicated by the Cost Proposal. The amount shall be used in the following formula to determine the points a Proposer shall receive for the Cost Proposal:

$$\frac{\text{lowest proposed cost for evaluation}}{\text{proposed cost for evaluation being evaluated}} \times \text{maximum cost points} = \text{SCORE of cost proposal being evaluated}$$

(Refer to Attachment 9.4, Cost Proposal Evaluation Format, for details.)

- 6.2.9 The RFP Coordinator shall combine the average Technical Evaluation scores with the Cost Evaluation scores for each Proposer. (Refer to Attachment 9.5, Proposal Score Summary Matrix).
- 6.2.10 All proposal evaluation calculations shall result in numbers rounded to the nearest two decimal places (e.g., 9.99).

6.3 Contract Award Process

- 6.3.1 The RFP Coordinator shall forward results from the proposal evaluation process to the head of the procuring agency for consideration.
- 6.3.2 The State reserves the right to make an award without further discussion of any proposal submitted. There shall be no best and final offer procedure. Therefore, each proposal should be initially submitted on the most favorable terms the vendor can offer.
- 6.3.3 After the evaluation of proposals and final consideration of all pertinent information available, the head of the procuring agency shall issue a written Evaluation Notice to all Proposers. The notice shall identify the apparent best evaluated Proposer. The notice shall not create rights, interests, or claims of entitlement in the apparent best evaluated Proposer or any vendor. (Refer to Attachment 9.6 for a sample notice).
- 6.3.4 The RFP files shall be made available for public inspection.
- 6.3.5 The State reserves the right, at its sole discretion, to negotiate with the apparent best evaluated Proposer subsequent to the Evaluation Notice.

- 6.3.6 The apparent best evaluated Proposer shall be prepared to enter into a contract with the State which shall be substantially the same as the *pro forma* contract included in Section 8 of this RFP. Notwithstanding, the State reserves the right to add terms and conditions, deemed to be in the best interest of the State, during final contract negotiations. Any such terms and conditions shall be within the scope of the RFP and shall not affect the basis of proposal evaluations.
- 6.3.7 If a Proposer fails to sign and return the contract drawn pursuant to this RFP and final contract negotiations within 14 days of its delivery to the Proposer, the State may determine, at its sole discretion, that the Proposer is nonresponsive to the terms of this RFP and reject the proposal.
- 6.3.8 If the State determines that the apparent best evaluated Proposer is nonresponsive and rejects the proposal after opening Cost Proposals, the RFP Coordinator shall re-calculate scores for each responsive Cost Proposal and award the Contract in accordance with the requirements of 6.2.8., *et seq.*, above.
- 6.3.9 Contract award shall be subject to the contract approval of all appropriate State officials in accordance with applicable State laws and regulations.

7 STANDARD CONTRACT INFORMATION

7.1 Contractor Registration

Contractor Registration is required of all state contractors. Proposers need not be registered with the state to make a proposal. However, all service providers with whom the state of Tennessee contracts must register through the Department of Finance and Administration *Service Provider Registry System* (SPRS) prior to contract approval. Any unregistered service provider must simply file a completed registration with the State prior to the final approval of a contract.

- 7.1.1 The SPRS is intended to foster the state's use of minority and small businesses and promote competition in service contracting. Through the system, state agencies will have access to ownership and service information about potential service providers. For more information, visit the SPRS Internet site at <http://www.state.tn.us/finance/rds/ocr/sprs.html> or direct questions about SPRS registration to:

Department of Finance and Administration
Office of Contracts Review
12 th Floor, William R. Snodgrass Tennessee Tower
Nashville, TN 37243-1700
(615) 741-7662

- 7.1.2 This RFP details SPRS registration information only as a contract requirement notice. SPRS registrations should not be submitted with proposal materials. SPRS registration information will not be considered in the evaluation process pursuant to this RFP.
- 7.1.3 If a Proposer fails to register with the state as a service provider as required by the Department of Finance and Administration within 14 days of final contract negotiations, the State may determine, at its sole discretion, that the Proposer is nonresponsive to the terms of this RFP.

7.2 Contract Approval

The RFP and the contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in the apparent best evaluated Proposer or any vendor. Contract award and State obligations pursuant thereto shall commence only after the contract is signed by the Contractor and the head of the procuring state agency and after the contract is signed by all other State officials as required by State laws and regulations to establish a legally binding contract.

7.3 Contract Payments

Contract payments shall be made in accordance with the Payment Terms and Conditions provision of the final contract.

No payment shall be made until the contract is approved as required by State laws and regulations. Under no conditions shall the State be liable for payment of any type associated with the contract or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before the contract start date specified by the contract or before contract approval by State officials as required by applicable statutes and rules of the State of Tennessee.

7.4 RFP and Proposal Incorporated into Final Contract

This RFP and the successful proposal shall be incorporated into the final contract.

7.5 Contract Monitoring

The Contractor shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the State. The State may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the State may inspect those areas of the Contractor's place of business that are related to the performance of the contract. If the State requires such an inspection, the Contractor shall provide reasonable access and assistance.

7.6 Contract Amendment

During the course of this contract, the State may request the Contractor to perform additional work for which the Contractor would be compensated. That work shall be within the general scope of this RFP. In such instances, the State shall provide the Contractor a written description of the additional work, and the Contractor shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's Proposal to this RFP. If the State and the Contractor reach an agreement regarding the work and associated compensation, said agreement shall become effective by means of a contract amendment. Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the Contractor and the head of the procuring state agency and must be approved by other State officials as required by State laws and regulations. The Contractor shall not commence additional work until the State has issued a written contract amendment and secured all required approvals.

The *pro forma* contract (provided in the following pages) contains capitalized and bracketed items that shall be replaced with appropriate information in the final contract.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
Department of Education
AND
[CONTRACTOR NAME]**

This Contract, by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and [CONTRACTOR LEGAL ENTITY NAME], hereinafter referred to as the "Contractor," is for the provision of technical computer consulting and programming services as related to student test scanning, test scoring, and report dissemination, as further defined in the "SCOPE OF SERVICES."

The Contractor is [AN INDIVIDUAL / A FOR-PROFIT CORPORATION / A NONPROFIT CORPORATION / A SPECIAL PURPOSE CORPORATION OR ASSOCIATION / A FRATERNAL OR PATRIOTIC ORGANIZATION / A PARTNERSHIP / A JOINT VENTURE / A LIMITED LIABILITY COMPANY]. The Contractor's address is:

[ADDRESS]

The Contractor's place of incorporation or organization is [STATE OF ORGANIZATION].

A. SCOPE OF SERVICES:

I. The Contractor will provide software development and support of existing web-based and client/server software applications used in the processing of State assessment tests.

The standard platform for existing applications is located at State facilities.

The current production platform is:

- Web Server is a Compaq Proliant 5500, quad processor, 3 gig RAM, 1 9.1GB HD RAID 0, 3 18.2 GB HD RAID 5
 - Windows NT SP6
 - IIS 4.0
 - Crystal Reports 8.5
 - Active Reports
 - SSL 128 bit encryption
- Database Server – Dell PowerEdge 6300 1.5GB RAM 3 X 18GB HD Raid 5
 - SQL Server 7.0
- All applications interface with the Department's existing security application for maintaining and verifying authorized user access.
- Interface to CTB (contract period 5/1/03-4/30/08)
 - Three (3) Compaq Proliant 6000 Dual Processor 15GB memory; twelve 9.1GB H/D Raid 5
 - DLT Tape Library for backups
 - One (1) RISC 6000

The standard platform for new applications will be the same as for existing applications. Comparable development and test platforms exist.

The vendor may support and run the applications on the State's existing servers or on their own servers provided that those servers are located in a secured, controlled environment has adequate bandwidth to support peak processing volume, and the State standard backup and recovery procedures are followed. The State Standard backup and recovery procedures are as follows:

Policy 9.00 Disaster Recovery

Disaster recovery planning and the capability for implementing a recovery are required encompassing all critical data processing applications and their peripheral support activities.

REFERENCE:

Tennessee Code Annotated, Section 4-3-5501, effective May 10, 1994.

OBJECTIVES:

1. Ensure that all critical information systems can be recovered in the event of a disaster which disrupts any of the data processing facilities of the State.
2. Provide the capability to continue processing critical information systems, both centralized and departmental, in the event of a disaster.
3. Define the responsibilities of OIR and agency information system management in the development of a disaster recovery plan for critical information systems.

SCOPE:

The policy will apply to all Agency-level and Statewide systems.

IMPLEMENTATION:

Department of Finance & Administration, Office for Information Resources

1. Develop and recommend to agencies, the standards, procedures and guidelines necessary to assure recovery capabilities for the State's information systems.
2. Define the procedure for declaring a disaster.
3. Define criteria for an application to be defined as critical.
4. Provide an ongoing technical review of disaster recovery aids, tools, techniques and other methods to meet ongoing disaster recovery requirements.
5. Provide for an administrative review of disaster recovery considerations in light of technical, environmental, procedural or statutory changes which may occur.
6. Provide management and technical consulting support to agencies in fulfilling their disaster recovery roles.
7. Utilize disaster recovery software and create the centralized disaster recovery plan.
8. Provide centralized disaster recovery coordinator and alternate.

Agency Management

1. Responsible for establishing policies and procedures for the development of the agency's disaster recovery plan.
2. Provide an agency disaster recovery coordinator who will be responsible for ensuring that the agency's portion of the centralized plan and that the agency's individual plan allow the agency to recover their critical information systems.
3. Responsible for establishing recovery procedures for the peripheral activities required to continue the agency's critical production tasks.

Existing State testing applications to support are listed below. All are web-based with the exception of item 4, which is a client/server application. Applications include all required reporting capabilities.

1. Faculty Student Data entry program (Accountability from Achievement Test)
2. Online Ordering System for all State tests
3. Field Processing Application for Gateway/End of Course
4. Competency Editing System for Competency test
5. State web pages, as needed for all tests
6. Demographic Validation Report for Achievement, TCAP Alt/ELL, Gateway and End-of-Course
7. Report of Irregularity System for Competency, Achievement, Gateway and End-of-Course
8. Special Education/English Language Learner – TCAP Alt and TCAP ELL
9. Pre-coded Header System for Achievement, Gateway, End-of Course, Accountability

- II. The contractor must supply all required services for each test administration. Preparation tasks must be performed prior to State test administration dates and scanning, scoring and processing of tests occurs after the administration dates listed below. These dates can vary slightly from year to year. For historical test cycle student quantities, see Attachment 2.**

2003 -2004 TCAP TESTING DATES

Test	Date
Gateway	December 9-11, 2003
End of Course	To be given within the last 10 days of instruction
Writing	February 3, 2004
Competency	February 23-27, 2004
Achievement	March 22 - April 9, 2004
End of Course	To be given within the last 10 days of instruction
Gateway	May 4-6, 2004
Competency	June 15-16, 2004
Competency	July 27-28, 2004
End of Course	To be given within the last 10 days of instruction
Gateway	July 20-22, 2004

- III. The contractor will provide the following consultant and project management tasks in association with all State test administrations and processing, except Writing.**

1. Project Management

Assist the State in managing the progress of each test through all administration and processing cycles.

- a) Provide performance evaluations during each test processing period to insure consistency in established standards.
- b) Work with the State's contracted test companies to proactively identify problems and solutions that will increase the level of function and accountability between the State and the test companies.

2. General Test Processing and Accountability Consulting

Provide the State with sound and aggressive business practices for the successful, technical implementation of State assessments and related services each year.

- a) Evaluate and improve the State's productivity, efficiency, cost of ownership and accountability.
- b) Evaluate, create and redefine test processing practices, solutions and support components as more efficient practices become apparent and available.
- c) Develop programs and services that continue to improve assessment functions for the State and between the State and the school districts, to include test processing procedures, turnaround times, reporting and accountability.
- d) Define, develop, deliver, manage and measure processing and programming problems and solutions to insure State requirements are continually met.

- e) Correlate data files with 4-digit numbers generated within Achievement Test processing and format data files to State specified configuration.

3. Logistical Consultation

Define and implement logistical practices that improve the components of test processing and the testing cycles.

- a) Review and improve logistics continuously in all areas of processing using State equipment which includes order entry, fulfillment, receiving, preparation, scanning, processing, scoring, printing, shipping and invoicing for all State assessments.
- b) Identify flaws in practices and complete a risk/reward evaluation with reasonable solutions for implementation.

4. Quality Assurance

Maintain quality control sampling techniques in each area of State test processing to establish and maintain high levels of quality before, during and after processing.

- a) Develop quality assurance and operational test decks in conjunction with State staff and test contractors for each test administration.
- b) Work cooperatively with the State and test companies to insure quality control and assurance procedures are maintained, effective and compatible with all entities.

5. Helpdesk

Provide constant help desk services to support State personnel at both the State and regional level.

- a) Provide support through a variety of methods including 1-800 phone number, email and on-site technical and operational support.
- b) Provide support services to the State Monday through Friday 7:00am CST – 5:00pm CST. During test processing cycles provide onsite support services during all working hours and 24 hour a day on-call service.

6. Mainframe Operations

Provide personnel to perform mainframe operations that include data bridging, data scrubbing, data analysis, print queuing, Job Control Language programming and any other process needed to produce the agency's complied data files and for maintaining district and school codes.

IV. The Contractor will provide scanner support, scan form design, and scanning programming for all State tests, except Writing.

The current scanners with workstations to support include:

- Four NCS 5000i scanners
- ScanTools II
- Compaq DeskPro P350 64MB with Windows NT 4.0 Workstation

1. Scan Form Design

Consult, develop and quality assure form proofs before the form is submitted to outside contractors for printing with the State concerning updated scan form designs on an as needed basis.

2. Scanning Programming

Develop and implement scanning programs for State scanners to accurately process and capture data from student answer documents for remote and on-site scanning.

- a) Install the developed software on each scanner prior to each test administration.

- b) Quality assure software scanning programs before test processing to maintain consistent standards.

3. **Field Scanning (Gateway and End-of-Course only)**

Provide computer systems in the State regional offices to facilitate the agency's field scanning initiatives, including hardware and all system maintenance and software upgrades, in support of the field scanning locations across the State. The current configuration includes nine small footprint computers with Windows 2000, ScanTools II, and a custom scanning and .net data transfer application.

- a) Provide the programming and monitoring needed to accurately translate captured data from field scanning into the data architecture of the test vendor in order to complete the data processing and scoring.
- b) Develop and provide improvements and upgrades to the field scanning software that is used to communicate with the central processing systems in Nashville at the Data Center.

V. **Data Warehousing and Analytical Processing for all State tests, except Writing**

- a) Provide the State with data warehousing services to support Online Analytical Processing (OLAP) applications. Warehouses and data marts must provide the State with 3 dimensional data sets that can be disaggregated from the State down to the student level.
- b) Provide analytical data reporting to the State upon request.
- c) Provide the State with a data archiving system to collect years of testing data and demographics, and stores this information in electronic form for later retrieval.
- d) Assure the data is in a secure environment and standard backup and recovery procedures are followed.
- e) Provide remote access to data to State personnel as requested.

VI. **The Contractor will provide State and Regional training for each test administration, except Writing.**

- a) Provide initial trainings and periodic refresher training, including a combination of on-site and regional step-by-step instruction with hands-on trainings, to State personnel to insure hardware, software, and test documents are handled appropriately and are processed effectively. Examples of, but not to be limited to, such trainings are provided below:
 - scanner operational procedures instruction on State equipment to efficiently operate and maintain the test processing systems on State hardware.
 - processing support and problem solving for test processing, data capture and scanner maintenance.
 - processing systems software instruction to insure effective test processing software utilization, which will include operating and maintaining the systems and hardware.
 - document handling and preparation training, including document repair techniques, to insure effective document scanning and data capture.
 - test irregularity procedures, which includes invalidating, omitting or suppressing test scores in conformation to specific criteria set forth by the State and test companies, and insuring irregularity standards are upheld through the test cycle and the final data files represent student assessment accurately.
 - data transfer software instruction to insure the scan files are accurate, transmitted securely to the State databases according to State schedules.
 - receiving, preparing and distributing procedures instruction, to include cutting of test documents, to insure answer documents are handled efficiently and properly for processing

- b) Provide updated documentation and procedural manuals to the State for all trainings, which may be used for reference and additional training methodologies.

VII. The Contractor will provide appropriately trained personnel to provide the needed services to the State for all State tests, except Writing.

- a) Provide non-technical (non-IT) and technical (IT) personnel with experience in technical support for and between entities for the purpose of processing a State test and providing assured practices, procedures and products that will support the State in test processing.
- b) Provide IT personnel who are adept in core languages including Microsoft SQL Server, Visual Basic, VB Script, ASP, VB.Net, ASP.Net, C++, C#, Crystal Reports, data warehousing and OLAP services. Microsoft and Cisco certified software engineers are preferred.
- c) Provide IT personnel who are familiar with the use of software architectures including, but not limited to: client/server, nTier, .Net web services, XML, desktop applications, system services, distributed applications, COM+, message queue, NTLM, ADSI, NCS Scan Tools II, active directory and any other software that can be applied to the State test processing procedures and services to facilitate and enhance processing procedures on State equipment.
- d) During each test administration and processing, Personnel shall be based and shall perform 40-60% of their work at State-operated, maintained, and managed facilities. The State reserves the right to request on-site or off-site work, whichever is deemed to be in the best interest of the project at non-administration and non-processing periods.
- e) Commensurate with the needs of a given project, the State will provide personnel with office space, access to telephones, office supplies, workstations or terminals, and connections to the relevant State LAN/WAN and/or mainframe environment during the administration and processing periods and any other necessarily deemed blocks of time the vendor is on-site. The vendor will be responsible for access to the system using state authorized access points at all times from the off-site location(s) approved by the State of Tennessee.

VIII. The Contractor will provide exigency services as needed.

- a) Provide unanticipated services related to state tests and test processing with IT and or non-IT staff as needed. IT positions are defined as per sections A.VII.b and A.VII.c. Non-IT positions are defined as per section A.VII.a.
- b) Provide IT and non-IT staff to assist State staff with unanticipated problems related to state test processing. IT positions are defined as per sections A.VII.b and A.VII.c. Non-IT positions are defined as per section A.VII.a.

(The following clause (IX) will apply only if the contract is awarded to a contractor other than the current contractor providing the services to the State.)

IX. The Contractor will provide Year 1 transitional services as needed for November and December 2003.

- a) The Contractor will not be held responsible for the technical support of Year 1 Fall's testing programs as the Contractor will be working in conjunction with State and other contracted staff. The Year 1 Fall work tasks shall encompass learning the State's network, applications, and testing programs from the current contractor as well as technically preparing for the Spring testing programs. **The contractor will provide these transition services at no cost to the State.** The Contractor will be held responsible for all technical support beginning January 1, 2004.

- b) Specifically, the Contractor shall become familiar with, but not be limited to, the following tasks:

November 2003 work tasks: (1) processing student tests from Fall Competency, (2) order entry system, and (3) system preparation and maintenance for TCAP Achievement and TCAP Gateway/EOC.

December 2003 work tasks: (1) preparing scanners, (2) initiating and training for remote scanning, (3) extraction or late research for TVAAS (Accountability), (4) Quick Score reporting for Gateway and End-of-Course, (5) preparation for processing fall tests (Competency, Gateway, End-of-Course) editing, SGLs, scoring and printing, and (6) prepare and have State approve a data transport plan for transporting all State test data in January

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on November 1, 2003 and ending on October 31, 2008. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **[WRITTEN DOLLAR AMOUNT]** (**\$(NUMBER AMOUNT)**). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service rates:

Exigent technical consulting services that are defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

JOB CLASSIFICATION**PAYMENT RATE PER HOUR YEARS 1-5**

IT Positions

\$ 75.00/hr - maximum 100 hrs (\$7,500)
 per test administration per year.
 Year 1 - 10 Test Administrations
 Years 2-5 - 9 Test Administrations per year

Non-IT Positions

\$ 60.00/hr - maximum 100 hrs (\$6,000)
 per test administration per year
 Year 1 - 10 Test Administrations
 Years 2-5 - 9 Test Administrations per year

NOTE: The maximum amounts to be invoiced at a rate of \$75/hour for IT positions or \$60/hour for non-IT positions must be approved by the State prior to service rendered. The Contractor shall not be compensated for travel time to the primary location of service provision.

For the provision of Technical and System Support, as described in Contract Section A, the Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State.

Service Unit / Milestone**Amount (Year = Nov. 1 thru Oct. 31)**

	<u>Technical/System Support</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
1	Fall– End-of-Course	\$ N/A	\$_____	\$_____	\$_____	\$_____
2	Fall– Gateway	\$ N/A	\$_____	\$_____	\$_____	\$_____
3	Spring– TCAP Achievement	\$_____	\$_____	\$_____	\$_____	\$_____
4	Spring– TCAP ALT/ELL	\$_____	\$_____	\$_____	\$_____	\$_____
5	Spring– End-of-Course	\$_____	\$_____	\$_____	\$_____	\$_____
6	Spring– Gateway	\$_____	\$_____	\$_____	\$_____	\$_____
7	Spring– Accountability	\$_____	\$_____	\$_____	\$_____	\$_____
8	Spring – Competency	\$_____	\$ N/A	\$ N/A	\$ N/A	\$ N/A
9	Summer (June) –Competency	\$_____	\$ N/A	\$ N/A	\$ N/A	\$ N/A
10	Summer (July) – Competency	\$_____	\$ N/A	\$ N/A	\$ N/A	\$ N/A
11	Summer – End-of-Course	\$_____	\$_____	\$_____	\$_____	\$_____
12	Summer - Gateway	\$_____	\$_____	\$_____	\$_____	\$_____

The Contractor shall submit monthly invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated. Hourly rate invoices shall, at a minimum, include the name of each individual, the individual's job title, the number of

hours worked during the period, the applicable Payment Rate, the total compensation requested for the individual, and the total amount due the Contractor for the period invoiced.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- D. STANDARD TERMS AND CONDITIONS:
 - D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
 - D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
 - D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least sixty (60) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
 - D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
 - D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the

State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.

- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under ***Tennessee Code Annotated***, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- E. SPECIAL TERMS AND CONDITIONS:
- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Karen Jenkins, Evaluation and Assessment Director
 Department of Education
 Andrew Johnson Tower, 7th Floor
 710 James Robertson Parkway
 Nashville, TN 37243-0375
 Phone:(615) 532-3027
 Fax: (615) 532-7860
 Email: Karen.Jenkins@state.tn.us

The Contractor:

[NAME AND TITLE OF CONTRACTOR CONTACT PERSON]
 [CONTRACTOR NAME]
 [ADDRESS]
 [TELEPHONE NUMBER]

[FACSIMILE NUMBER]

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this contract, these items shall hereinafter be referred to as a “Breach.”

a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the state shall have available the remedy of Actual Damages and any other remedy available at law or equity.
- (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Attachment 1 and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The

State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken

- (4) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. State Breach— In the event of a Breach of contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall

operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

- E.5. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.6. Annual Report and Audit. The Contractor shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Contract to the commissioner or head of the contracting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Contractor that receives \$300,000 or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Contractor may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Contractor and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Contractor shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Contractor shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Contracting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.
- E.7. State Ownership of Work Products. The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.
- E.8. Performance Bond. Upon approval of the Contract by all appropriate State officials in accordance with applicable State laws and regulations, the Contractor shall furnish a performance bond in the amount equal to Two hundred fifty thousand dollars (\$ 250,000.00), guaranteeing full and faithful performance of all undertakings and obligations under this Contract for the initial Contract term and all extensions thereof. The bond shall be in the manner and form prescribed by the State and must be issued through a company licensed to issue such a bond in the State of Tennessee.

The Contractor shall obtain the required performance bond in form and substance acceptable to the State and provide it to the State no later than October 10, 2003. Failure to provide the

performance bond prior to the deadline as required shall result in contract termination.

In lieu of a performance bond, a surety deposit, in the sum of to Two hundred fifty thousand dollars (\$ 250,000.00), may be substituted if approved by the State prior to its submittal.

- E.9. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of **Tennessee Code Annotated**, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by **Tennessee Code Annotated**, Section 12-7-103 (d).
- E.10. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or services. Such procurements shall be made on a competitive basis, where practical.
- E.11. State Interest in Equipment—Uniform Commercial Code Security Agreement. The Contractor shall take legal title to all equipment and to all motor vehicles, hereinafter referred to as "equipment," purchased totally or in part with funds provided under this Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's contribution to the purchase price. "Equipment" shall be defined as an article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds \$5,000.00.

As authorized by the provisions of the terms of the Tennessee Uniform Commercial Code—Secured Transaction, found at Title 47, Chapter 9 of the **Tennessee Code Annotated**, and the provisions of the Tennessee Motor Vehicle Title and Registration Law, found at Title 55, Chapter 1 of the **Tennessee Code Annotated**, an intent of this Contract document and the parties hereto is to create and acknowledge a security interest in favor of the State in the equipment or motor vehicles acquired by the Contractor pursuant to the provisions of this Contract document. A further intent of this Contract document is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Contractor pursuant to the provisions of this program's prior year Contracts between the State and the Contractor.

The Contractor hereto grants the State a security interest in said equipment. This agreement is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Contractor hereby grants the State a security interest in said equipment. The Contractor agrees that the State may file this Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Contractor agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Contract in such form as the State may require to perfect a security interest with respect to said equipment. The Contractor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Contractor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment, including replacements and additions thereto. Upon the Contractor's breach of any covenant or agreement contained in this Contract, including the covenants to pay when due all sums secured by this Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Contractor agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Contract. The Contractor shall maintain a perpetual inventory system for all equipment purchased with funds

provided under this Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment;
- b. Manufacturer's serial number or other identification number, when applicable;
- c. Consecutive inventory equipment tag identification;
- d. Acquisition date, cost, and check number;
- e. Percentage of state funds applied to the purchase;
- f. Location within the Contractor's operations where the equipment is used;
- g. Condition of the property or disposition date if Contractor no longer has possession;
- h. Depreciation method, if applicable; and
- i. Monthly depreciation amount, if applicable.

The Contractor shall tag equipment with an identification number which is cross referenced to the equipment item on the inventory control report. The Contractor shall inventory equipment annually. The Contractor must compare the results of the inventory with the inventory control report and investigate any differences. The Contractor must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Contractor shall notify the State, in writing, of any equipment loss describing reason(s) for the loss. Should the equipment be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

The Contractor shall submit its inventory control report of all equipment purchased with the final invoice submitted under this Contract. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control.

Upon termination of the Contract, where a further contractual relationship is not entered into, or at another time during the term of the Contract, the Contractor shall request written approval from the State for any proposed disposition of equipment purchased pursuant to this Contract. All equipment shall be disposed of in such a manner as parties may agree from among alternatives approved by Tennessee Department of General Services and in accordance with any applicable federal laws or regulations.

- E.12. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

- E.13. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Proposal
- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.14. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.

E.15. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.16. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.17. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.18. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.19. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.20. Public Accountability. If this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor agrees to display a sign stating:
- "NOTICE: This Contractor is a recipient of taxpayer funding. if you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"
- Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.
- E.21. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.22. Date/Time Hold Harmless. As required by ***Tennessee Code Annotated***, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.
- E.23. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of

Tennessee in any legal matter, such rights being governed by ***Tennessee Code Annotated***, Section 8-6-106.

- E.24. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in ***Tennessee Code Annotated***, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.
- E.25. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

IN WITNESS WHEREOF:

[CONTRACTOR LEGAL ENTITY NAME]:

[NAME AND TITLE]

Date

DEPARTMENT OF EDUCATION:

LANA C. SEIVERS, COMMISSIONER

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr., Commissioner

Date

DEPARTMENT OF PERSONNEL:

Randy C. Camp, Commissioner

Date

COMPTROLLER OF THE TREASURY:

John G. Morgan, Comptroller of the Treasury

Date

ATTACHMENT 1

LIQUIDATED DAMAGES SCHEDULE

In the event of a Contractor Breach, the amounts listed below will be withheld by the State as Liquidated Damages.

Type of Service Breach

Penalty

- | | | |
|----|---|------------------------------|
| 1) | Exigency Consulting Service/Technical Support | \$100,000.00 per test Admin. |
|----|---|------------------------------|

A breach in consulting service or technical support will result from inadequate Contractor-provided exigent service rendered in support of the test programs listed in Section A.

- | | | |
|----|--|------------------------------|
| 2) | Software Development and support of existing applications as needed per test administration: | |
| | Faculty Student Data entry program | \$ 45,000.00 per test admin. |
| | Online Ordering System | \$ 15,000.00 per test admin. |
| | Field Processing Application for Gateway/End-of-Course | \$ 30,000.00 per test admin. |
| | Competency Editing System | \$ 25,000.00 per test admin. |
| | Demographic Validation Report | \$ 65,000.00 per test admin. |
| | Report of Irregularity System | \$ 25,000.00 per test admin. |
| | Special Education/ELL – TCAP Alt/ELL reporting | \$ 40,000.00 per test admin. |
| | Pre-coded Header System for Achievement | \$ 25,000.00 per test admin. |

A breach in software development /support services of existing web-based and client/server software applications used in the processing of State assessment tests will result from the Contractor's inability to achieve satisfactory implementation of the systems listed below per test administration. The systems must be completed, updated, operational and functional prior to the receipt of tests for processing, according to the table below.

Software Applications

Supported Test Programs

Faculty Student Data entry program

Accountability, Achievement

Online Ordering System

Competency, Achievement, TCAP
Alt/ELL, Gateway, End of Course,
Writing

Field Processing Application

Gateway, End of Course

Competency Editing Storage/Retrieval System

Competency

Demographic Validation Report

Achievement, TCAP Alt/ELL, Gateway,
End-of-Course

Report of Irregularity System

Competency, Achievement, Gateway,
End-of-Course

Special Education/ELL – TCAP Alt/ELL Application

TCAP ALT, TCAP ELL

Pre-coded Header System

Achievement, Gateway, End of
Course, Accountability

ATTACHMENT 2

HISTORICAL TEST CYCLE QUANTITIES

The following frequencies represent historical data from the 02-03 school year and do not necessarily predict future school year test frequencies.

<u>TEST CYCLE</u>	<u>NUMBER OF STUDENTS TESTED</u>
Fall – (October) Competency	63,200
Fall – (December) Gateway	60,000
Fall – End-of-Course	33,000
Spring – (February) Competency	28,000
Spring – (March-April) TCAP Achievement	700,000
Spring – (March-April) TCAP Alt/ELL	3,500
Spring – End-of-Course	89,000
Spring – (May) Gateway	189,000
Spring – Accountability	700,000
Summer -- (June) Competency	17,500
Summer -- (July) Competency	14,700
Summer – End-of-Course	4,000
Summer – (July) Gateway	24,000

ATTACHMENT 9.1
CERTIFICATION OF COMPLIANCE
RFP # 331.11-012

Proposer Name

By indication of the authorized signature below, the Proposer does hereby make certification and assurance of the Proposer's compliance with:

- a) the laws of the State of Tennessee;
- b) Title VI of the federal Civil Rights Act of 1964;
- c) Title IX of the federal Education Amendments Act of 1972;
- d) the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- e) the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- f) the condition that the submitted proposal was independently arrived at, without collusion, under penalty of perjury; and,
- g) the condition that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the Procurement under this RFP.

Proposer Signature**Date**

ATTACHMENT 9.2

COST PROPOSAL FORMAT

RFP # 331.11-012

Proposer Name

NOTICE TO PROPOSER:

The Proposer shall indicate below the offered price for providing all services proposed including all services as defined in the *pro forma* contract Scope of Services of the subject RFP. This Cost Proposal must specifically record below the exact cost amount(s) proposed in the appropriate space(s) as required herein. Said cost proposed must incorporate all cost for the proposed scope of services for the total contract period.

The Cost Proposal shall detail only the cost proposed as required, and shall not detail any other rates, amounts, or information. It shall not detail any text that could be construed as a qualification of the cost proposed. If the Proposer fails to specify the Cost Proposal as required, the State shall determine the proposal to be nonresponsive and reject it.

The proposer must sign and date the Cost Proposal.

Cost must be proposed for each of the following cost-component categories and in accordance with the following instructions.

Consulting Service/Technical Support Total. The Proposer shall propose a total cost, for each of the five (5) years of the contract to provide (1) software development and support of existing applications; (2) technical consulting services for test processing; (3) project management tasks in association with each test administration and processing and; (4) State and Regional training for each test as described in Section 8.A.

NOTE: Exigency consulting services not defined in Section 8A shall be compensated based upon the following rates: IT positions \$75/hour and non-IT positions \$60/hour for a maximum of 100 hours per test administration per year and must be approved by the State prior to service rendered.

PROPOSED COST (Year = Nov. 1 thru Oct. 31)

Assessment	Year 1	Year 2	Year 3	Year 4	Year 5
Fall End-of-Course	\$ N/A	\$ _____	\$ _____	\$ _____	\$ _____
Fall Gateway	\$ N/A	\$ _____	\$ _____	\$ _____	\$ _____
Spring TCAP Achievement	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Spring TCAP ALT/ELL Assessment	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Spring End-of-Course	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Spring Gateway	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Spring Accountability	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Spring Competency	\$ _____	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Summer (May-June) Competency	\$ _____	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Summer (June-July) Competency	\$ _____	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Summer End-of-Course	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Summer Gateway	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

The proposed cost and the submitted technical proposal associated with this cost shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any resulting contract between the Proposer and the State.

Proposer Signature

Date

ATTACHMENT 9.3

TECHNICAL PROPOSAL EVALUATION FORMAT

RFP # 331.11-012

Proposer Name

Evaluator

Date

PROPOSAL EVALUATIONS CATEGORY (AND RELATED CRITERIA)	SCORE
<u>General Proposer Qualifications (Maximum Points: 50)</u> <ul style="list-style-type: none">- vendor credentials- Proposer's background including an organizational history- whether the Proposer or any of the Proposer's employees, agents, independent contractors, or subcontractors have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony- pending litigation against the Proposer- bankruptcy or insolvency proceedings- organizational chart highlighting key personnel assigned to accomplish the work called for in this RFP- proposed project team, members, and organizational structure- personnel roster and resumes of key people assigned to the proposed project- performance of current contractual relationships with the State of Tennessee or those completed within the previous five year period- experience references for similar projects representing the three largest accounts currently serviced by the vendor or has served within the past three years	
<u>Technical Approach (Maximum Points: 20)</u> <ul style="list-style-type: none">- vendor's understanding of the requirements of the project and the project schedule- how the Proposer will meet varying levels of staffing need- whether the Proposer has procedures and staff currently in place- how the Proposer will complete the scope of services as required- how the Proposer will manage the project and ensure completion of the scope of services as required	
TOTAL TECHNICAL PROPOSAL SCORE:	

ATTACHMENT 9.4
COST PROPOSAL EVALUATION FORMAT
RFP # 331.11-012

Proposer Name

Evaluator

Date

FIVE YEAR TOTAL PROPOSED COST FOR EVALUATION:	Amount derived by totaling the amounts from the subject cost proposal (Attachment 9.2]
--	--

The RFP Coordinator shall use the proposed cost for evaluation amount derived from cost proposals and the following formula to calculate the **SCORE** for the subject cost proposal (calculations shall result in numbers rounded to two decimal places).

$$\frac{\text{lowest proposed cost for evaluation}}{\text{proposed cost for evaluation being evaluated}} \times \text{maximum cost points} = \text{SCORE of cost proposal being evaluated}$$

1. Lowest total proposed cost amount from <u>all</u> proposals:	
2. The total proposed cost for <u>this</u> proposal:	
3. The amount calculated by dividing the amount in row #1 by the amount in row #2:	
4. The maximum number of points that shall be awarded for the Cost Proposal category:	30
5. COST PROPOSAL SCORE -- the product calculated by multiplying the amount in row #3 by the number in row #4:	

ATTACHMENT 9.5

PROPOSAL SCORE SUMMARY MATRIX
RFP # 331.11-012

[SIGNATURE]

RFP Coordinator

Date

	[PROPOSER NAME]	[PROPOSER NAME]	[PROPOSER NAME]
QUALIFICATIONS AND EXPERIENCE Maximum Points : 50			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
AVERAGE SCORE:		AVERAGE SCORE:	AVERAGE SCORE:
TECHNICAL APPROACH Maximum Points : 20			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
[EVALUATOR NAME]			
AVERAGE SCORE:		AVERAGE SCORE:	AVERAGE SCORE:
COST PROPOSAL Maximum Points: 30			
SCORE:		SCORE:	SCORE:
PROPOSAL SCORE (Maximum 100 Points)			
TOTAL SCORE:		TOTAL SCORE:	TOTAL SCORE:

NOTE: Use as many sheets as necessary to summarize scores for all Proposers evaluated.

ATTACHMENT 9.6**SAMPLE EVALUATION NOTICE**

[AGENCY LETTERHEAD]

[DATE]

[NAME]

[COMPANY NAME]

[STREET ADDRESS]

[CITY, STATE, ZIP]

Dear [NAME],

Thank you for your proposal in response to RFP number 331.11-012. The state has completed its evaluation of proposals in response to this Request for Proposals, and the subject procurement records are open for public inspection.

[NAME OF APPARENT BEST EVALUATED PROPOSER] is the apparent best evaluated proposer that the state will consider for contract award. This notice is NOT an acceptance of any offer, and the state retains the right to reject any proposal.

In accordance with the subject RFP and state law, this notice shall NOT create rights, interests, or claims of entitlement in the apparent best evaluated proposer or any vendor. No vendor shall acquire any such right unless and until a contract is fully signed by all appropriate state officials.

We appreciate your interest in providing services to the State of Tennessee and hope that you will respond to future Requests for Proposals.

Sincerely,

[AGENCY HEAD SIGNATURE]

ATTACHMENT 9.7**PERFORMANCE BOND**

The Surety Company issuing bond shall be licensed to transact business in the State of Tennessee by the Tennessee Department of Commerce and Insurance. Bonds shall be certified and current Power-of-Attorney for the Surety's Attorney -in-Fact attached.

KNOW ALL BY THESE PRESENTS:

That we,

(Name of Principal)

(Address of Principal)

as Principal, hereinafter called the Principal, and

(Name of Surety)

(Address of Surety)

as Surety, hereinafter called the Surety, do hereby acknowledge ourselves indebted and securely bound and held unto the State of Tennessee as Obligee, hereinafter called the Obligee, and in the penal sum of

(\$250,000.00)

good and lawful money of the United States of America, for the use and benefit of those entitled thereto, for the payment of which, well and truly to be made, we bind ourselves, our heirs, our administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

WHEREAS, the Obligee has engaged the Principal for a sum not to exceed

(Contract Maximum Liability)

to complete Work detailed in the Scope of Services detailed in the State of Tennessee Request for Proposals bearing the RFP Number:

331.11-012

(RFP Number)

and further detailed in a written Contract bearing the Contract Number (assigned by the State of Tennessee):

(Contract Number)

a copy of which said Request for Proposals and Contract are by reference hereby made a part hereof, as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, if the Principal shall fully and faithfully perform all undertakings and obligations under the Contract hereinbefore referred to and shall fully indemnify and hold harmless the Obligees from all costs and damage whatsoever which it may suffer by reason of any failure on the part of the Principal to do so, and shall fully reimburse and repay the Obligees any and all outlay and expense which it may incur in making good any such default, and shall fully pay for all of the labor, material, and Work used by the Principal and any immediate or remote sub-contractor or furnisher of material under the Principal in the performance of said Contract, in lawful money of the United States of America, as the same shall become due, then this obligation or bond shall be null and void, otherwise to remain in full force and effect.

AND for value received, it is hereby stipulated and agreed that no change, extension of time, alteration, or addition to the terms of the Contract or the Work to be performed thereunder or the specifications accompanying the same shall in any wise affect the obligation under this bond, and notice is hereby waived of any such change, extension of time, alteration, or addition to the terms of the Contract or the Work or the specifications.

IN WITNESS WHEREOF the Principal has hereunto affixed its signature and Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this

_____ day of _____, _____.

WITNESS:

(Name of Principal)

(Name of Surety)

(Authorized Signature of Principal)

(Signature of Attorney-in-Fact)

(Name of Signatory)

(Name of Attorney-in-Fact)

(Title of Signatory)

(Tennessee License Number of Surety)